



Town of Bolton  
3045 Theodore Roosevelt Highway  
Bolton, VT 05676

## **Bolton Development Review Board**

### **Meeting Minutes**

**March 24, 2016**

**Bolton Town Office**

**DRB Members Present:** Michael Rainville (Chair), Sharon Murray, Adam Miller (Alternate), Steve Diglio, Rob Ricketson (Alternate)

**DRB Members Absent:** John Devine, Charmaine Godin

**Staff Present:** Sarah McShane, DRB Assistant/Zoning Administrator

**Others Present:** Joji Fillmore (via telephone), David Sunshine, Chris Austin, Steven Utter, Benjamin Putnam, Maureen Matthews, Bill O'Brien, Francis Joseph O'Brien, Tom Yagel

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#### **Posted Agenda:**

1. Public Comment
2. 2016 Organizational Meeting
  - a. Confirm DRB membership (appointments, vacancies)
  - b. Elect Officers (Chair, Vice Chair, Secretary)
  - c. Review DRB Rules of Procedure and Ethics
  - d. DRB projects, coordination with Planning Commission (forms, bylaw updates)
  - e. Set regular meeting date, schedule.
3. Warned Public Hearings: Notice –Participation in the hearing process is required in order to appeal a decision of the Development Review Board.
  - a. Application 2014-24-SD: Joji Fillmore- (Continued from January 28, 2016): Re-hearing of 2011-19-SD, approved in September 2011 (Subdivision plat was never filed and decision expired). The property is identified on Town of Bolton Tax Map # 5-3003246 and is located at 2634 Stage Road.
  - b. Application 2015-22-AP/VAR: Appeal of Zoning Administrator's Decision dated October 6, 2015- (Continued from February 25, 2016): Applicant David Sunshine representing property owners Randy & Misty Couch. The property is identified on Town of Bolton Tax Map # 4-4040081 and is located at 81 Gardiner Lane in the Resort Residential zoning district.
  - c. Application 2016-02-ZP/CU: Steven Utter – Conditional Use Review for an amendment to DRB decision 2014-27-CU dated 4/30/2015 for a setback reduction to replace a pre-existing non-conforming structure. The property is identified on Town of Bolton Tax Map # 14-4160378 and is located at 378 Sharkyville Road in the Rural II zoning district.
4. Zoning Administrator's Report
5. Meeting Minutes
6. Other Business
7. Meeting Adjournment

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#### **Call to Order**

Mr. Rainville, Chair, called the meeting to order at 6:35pm with a quorum present.

#### **1. Public Comment & Adjustments to the Agenda**

Board members agreed to move the organizational meeting to the end of the agenda.

#### **2. Public Hearing: Application 2014-24-SD: Joji Fillmore- (Continued from January 28, 2016): Re-hearing of 2011-19-SD, approved in September 2011 (Subdivision plat was never filed and decision expired). The property is identified on Town of Bolton Tax Map # 5-3003246 and is located at 2634 Stage Road.**

Mr. Rainville re-opened the hearing and provided an overview of the application. No ex parte communications or conflicts of interest were reported. The application is continued from January

1 28, 2016. Staff McShane noted that additional information was received from Benjamin Putnam  
2 on behalf of A.Johnson Company. The Applicant, Mr. Joji Fillmore, participated in the hearing via  
3 teleconference.

4  
5 Mr. Fillmore provided the Board a subdivision plat prepared by a licensed surveyor in advance of  
6 the meeting. Mr. Fillmore gave an overview of the information indicated on the subdivision plat  
7 including the building envelope and buffer areas. Mr. Diglio asked whether or not steep slopes or  
8 contour lines were required to be on the subdivision plan. Ms. Mathews asked if the building  
9 envelope was marked on the ground with pins. Mr. Fillmore indicated that he wasn't sure  
10 whether or not the envelope was marked on the ground; he noted the corners were marked on  
11 the plan. Ms. Murray stated that the plan doesn't indicate whether or not the building envelope  
12 excludes steep slopes. Mr. Fillmore stated that the area that is marked as the envelope is within  
13 a small cleared area. Mr. Diglio and board members agreed that topography needs to be shown  
14 in the proximity of the building envelope. Ms. Murray noted that the requirements for a  
15 subdivision plat include contour lines and steep slopes. Mr. Diglio noted that the building  
16 envelope needs to conform to the regulations by excluding the regulated steep slopes. Board  
17 members noted that during the site visit, it appeared that some grading had taken place near the  
18 envelope.

19  
20 Mr. Rainville noted that the Board received a letter from Benjamin Putnam on behalf of A.  
21 Johnson Company. Mr. Putnam provided an overview of the submitted letter. He stated that  
22 after 18 months of unsuccessfully trying to negotiate a right-of-way agreement, the A. Johnson  
23 Company could no longer support the application. The Board discussed whether or not the lot  
24 had residential development rights since it had previously been designated a wood lot. Ms.  
25 Matthews stated that the Streeter DRB decision noted that in order to develop the 'wood lot' it  
26 would require further review by the Board. Mr. Putnam noted the deed language pertaining to  
27 the A. Johnson Company's right-of-way on the parcel and stated that there is a safety issue with  
28 joint logging and residential uses without an agreement. He also noted that the last DRB  
29 approval required a binding maintenance agreement and that without an agreement the  
30 A.Johnson Company could not support the application.

31  
32 Tom Yagel, senior forester with A. Johnson Company, provided verbal testimony. He stated the  
33 conflict between forestry activities and residential uses and the potential issues with dragging  
34 logs over an area where the septic system is proposed. He stated that the two uses are  
35 incompatible. Mr. Fillmore asked how often the area is logged.

36  
37 Ms. Matthews asked if there were setbacks from the current right-of-way to the building  
38 envelope. Ms. Murray noted that the regulations require setbacks from wetlands, streams, and  
39 property lines.

40  
41 Mr. Bill O'Brien and Mr. Francis Joseph O'Brien were also present and provided testimony. Mr.  
42 Bill O'Brien stated that he has been researching access to his parcel and his access rights. He has  
43 been unable to find recorded information but will continue to look for it. He stated that the  
44 location of the parcel being close to the Bolton/Richmond town-line has interfered with his  
45 research. He stated that he objects to the location of the proposed building envelope and he had  
46 hoped for better communication between neighbors. He noted that the house site needed to be  
47 better located in regards to the parcels topography. He stated that there was once a logging road  
48 running from Stage Road to his property.

1  
2 Ms. Matthews stated that A.Johnson Company relocated the right-of-way when her house was  
3 developed and to avoid the wetter areas near the seasonal stream. Mr. Putnam noted Section  
4 7.3(G)(2) regarding building envelope requirements and avoiding conflict with existing logging  
5 activities.

6  
7 Ms. Murray asked if there were any other locations that would be better suited for the building  
8 envelope. Mr. Fillmore stated that any residence built on the parcel would be built in a safe area.  
9 Mr. Diglio made a motion to close the hearing, Ms. Murray seconded. The motion carried 5-0.  
10 The Board will issue a written decision within 45 days.

11  
12 **3. Public Hearing: Appeal of Zoning Administrator's Decision dated October 6, 2015- Applicant**  
13 **David Sunshine for Property Owners Randy & Misty Couch. 81 Gardiner Lane, Tax ID 4-4040081.**  
14 **Resort Residential Zoning District.**

15 Mr. Rainville re-opened the hearing and provided an overview of the application. No ex parte  
16 communications or conflicts of interest were reported. He stated that this application is continued  
17 from February 25, 2016. He also reminded Board members that appeals of the Zoning  
18 Administrator are subject to review under Section 9.5 and 9.6 of the Bolton Land Use and  
19 Development Regulations. Attorney David Sunshine was present on behalf of the property owners  
20 Randy and Misty Couch. The property owners are appealing the written determination from Bolton  
21 Zoning Administrator, Miron Malboeuf, dated October 6, 2015 regarding the possibility of future  
22 development on the parcel located at 81 Gardiner Lane. The property contains a stream and is  
23 currently is undeveloped. Former Zoning Administrator Miron Malboeuf determined in writing that  
24 given the location of the stream, the lot was not suited for development. In response to the Board  
25 request during the last meeting, Mr. Sunshine submitted a site plan of the parcel including the  
26 location of existing footings and the distance to the stream.

27  
28 Mr. Sunshine provided an overview of his clients request and provided hand-outs to board  
29 members. He stated that his client provided a site plan indicating the proposed dwelling in  
30 relationship to the stream. He also provided information regarding the variance criteria. He stated  
31 that he did not find any information regarding municipal approval however the subdivision  
32 obtained an Act 250 permit, as well as water and sewer. He noted that the survey was recorded in  
33 1992 and that copies of the state permits were all provided to the town. He felt confident that  
34 although he may not have found a municipal permit, the town was aware that the development  
35 was taking place. Mr. Diglio stated that he was familiar with the parcel and the footing remnants  
36 are still there. He stated that he felt the driveway would have issues meeting B-71 Standard.

37  
38 Ms. Murray noted that there are provisions for erosion control on steep slopes and that the  
39 Applicant wanted to know whether or not the lot is buildable. Mr. Sunshine said that the lot is a  
40 pre-existing lot and as such has the right to develop. In cases with nonconforming lots, variance  
41 and waiver criteria may apply. Mr. Ricketson said that it was an informal question that the Zoning  
42 Administrator was asked and that he agrees it is a pre-existing lot that is buildable; however the  
43 property owner would have to demonstrate that it meets the regulations.

44  
45 Mr. Sunshine asked whether or not the board could make a determination whether or not the lot  
46 was buildable. Mr. Diglio stated that Mr. Sunshine's client needs to provide a site plan

1 demonstrating compliance with the regulations.  
2

3 Board members agreed that the best case is for the Board to close the hearing regarding the  
4 appeal, and for the property owners to work with the Zoning Administrator to file a zoning permit.  
5 If the Applicant can't demonstrate compliance, the application would be referred to the Board for  
6 either a variance or waiver.  
7

8 Ms. Murray stated that the Board also needed to make a determination regarding the legal  
9 nonconforming status of the lot. Mr. Diglio felt that it would be okay to consider the lot legally  
10 nonconforming. Mr. Rainville agreed. Ms. Murray also agreed that she would be willing to accept  
11 the lot as legally nonconforming. Ms. Murray motioned, Mr. Diglio seconded, to accept the lot as  
12 legally nonconforming lot based on the information provided. The motion passed (5-0).  
13

14 Ms. Murray made a motion, seconded by Mr. Diglio to close the appeal hearing. The motion passed  
15 unanimously, (5-0).  
16

17 **4. Public Hearing: Application 2016-02-ZP/CU: Steven Utter – Conditional Use Review for an**  
18 **amendment to DRB decision 2014-27-CU dated 4/30/2015 for a setback reduction to replace a**  
19 **pre-existing non-conforming structure. The property is identified on Town of Bolton Tax Map #**  
20 **14-4160378 and is located at 378 Sharkyville Road in the Rural II zoning district.**

21 Mr. Rainville opened the hearing and provided an overview of the application. No ex parte  
22 communications or conflicts of interest were reported. He stated that the Applicant and  
23 property owner, Steven Utter, submitted an application for conditional use approval to add a  
24 porch onto a previously approved nonconforming dwelling on Sharkeyville Road. The Applicant is  
25 proposing a 6' x 24' covered porch on the previously approved 24' x 28' seasonal dwelling. The  
26 DRB decision issued on April 30, 2015 included the following condition of approval "The proposed  
27 3-bedroom dwelling shall not exceed 24' x 28' and shall be sited as indicated on the site plan  
28 provided by Grenier Engineering, last revised 10-14-14." The Applicant is requesting the Board  
29 amend the condition to allow a covered porch.  
30

31 The Applicant/property owner was represented by Chris Austin of Grenier Engineering. Mr.  
32 Austin provided an overview of the Applicant's request. He stated that the porch will add an  
33 additional 84 square feet of non-conformance into the side and front setbacks, totally a 15%  
34 increase in noncompliance, well below the 50% allowed under Section 3.8(B)(4). He also noted  
35 the location of the septic lines and steep slopes in relation to the building location and setbacks.  
36 The Board noted that one of the reasons they allowed it to encroach into the front setback is due  
37 to the steep slopes in the rear of the lot. The board discussed whether or not the slopes were  
38 stable.  
39

40 Discussion ensued regarding the pre-existing degree of nonconformance versus the proposed  
41 degree of nonconformance. Overall the project will reduce the total square footage of  
42 noncompliance. Ms. Murray noted that the Board will have to make findings under the  
43 conditional use review criteria.  
44

45 Mr. Ricketson made a motion, seconded by Mr. Miller to close the hearing. The motion passed  
46 unanimously, (5-0). The DRB will issue a written decision within 45 days.

1  
2 **5. Zoning Administrator's Report**  
3

4 Ms. McShane provided an update regarding zoning inquires and permits. She stated that there is a  
5 property owner interested in constructing an addition on an existing single-family home in the  
6 Conservation District. She inquired about the maximum building coverage requirement of 2,000 SF  
7 and whether or not there any provisions for existing dwellings or if expansion beyond that footprint  
8 would require a variance. Ms. Murray noted that the parcel is actually in the Rural I district, not the  
9 Conservation District.

10  
11 Ms. McShane also asked if adding an open porch on a nonconforming structure would constitute  
12 adding volume or simply adding square footage. Board members discussed how it has been  
13 inconsistently applied in past applications.

14  
15 Ms. McShane notified the board of a recent inquiry from the Green Mountain Club and their  
16 intention to renovate the historic Bolton Lodge. She noted that the proposal wasn't increasing the  
17 footprint or changing the use, and asked whether or not it would require zoning review. Ms. Murray  
18 recommended looking at the Bolton Valley DRB decision and the project wouldn't require a zoning  
19 permit.

20  
21 **6. Meeting Minutes**  
22

23 Members reviewed the minutes from February 25, 2016. Ms. Murray made a motion, seconded by  
24 Mr. Diglio to accept the minutes of February 25, 2016 as submitted. The motion passed  
25 unanimously, (5-0).

26 **7. Other Business**

27 None  
28

29 **8. 2016 Organizational Meeting**  
30

- 31
- 32 • Confirm DRB membership (appointments, vacancies)
  - 33 • Elect Officers (Chair, Vice Chair, Secretary)
  - 34 • Review DRB Rules of Procedure and Ethics
  - 35 • DRB projects, coordination with Planning Commission (forms, bylaw updates)
  - 36 • Set regular meeting date, schedule.

37 Members discussed membership. Ms. Murray made a motion, seconded by Mr. Diglio, to elect Mr.  
38 Diglio as the Chair, Mr. Rainville as Vice-Chair, and Mr. Devine as Secretary. The motion passed  
39 unanimously. Ms. McShane will check with Ms. Godin regarding her schedule.

40  
41 Members discussed and reviewed the Rules of Procedure. Ms. Murray will send out the most  
42 current copy of the Rules of Procedure. Members agreed to maintain the regular meeting date of  
43 the 4<sup>th</sup> Thursday for the time being.

44  
45 **9. Meeting Adjournment**  
46

1 Mr. Diglio made a motion, seconded by Ms. Murray, to adjourn the meeting. Motion passed  
2 unanimsously, (5-0). The meeting adjourned at 8:35 PM.

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4 The next DRB meeting will be held on April 28, 2016 at the Bolton Town Office at 6:30 PM.

5  
6 **10. Deliberative Session**

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8 Board members met in deliberative session.

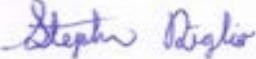
9  
10 Respectfully submitted,

11  
12 Sarah McShane  
13 Bolton DRB Assistant

14  
15 *\*\*These minutes are unofficial until formally accepted by the DRB.\*\**

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16  
17 These minutes were read and accepted by the Development Review Board on April 28, 2016.

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21 Steve Diglio, DRB Chair